

**Assembly Bill No. 742**

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Passed the Assembly    June 29, 1998

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*Chief Clerk of the Assembly*

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Passed the Senate    June 25, 1998

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to add Section 1367.09 to the Health and Safety Code, relating to health care service plans.

## LEGISLATIVE COUNSEL'S DIGEST

AB 742, Washington. Health care service plans.

Under existing law, the Health Care Service Plan Act of 1975, health care service plans are regulated by the Department of Corporations. Willful violation of the act is a crime.

This bill would require an enrollee of a health care service plan who has Medicare coverage and is discharged from an acute care hospital to be allowed to return to a skilled nursing facility, as defined, that serves the needs of special populations in which the enrollee resided for at least 60 days prior to hospitalization, or the skilled nursing unit of a continuing care retirement community, as defined, or multilevel facility, as defined, in which the enrollee is a resident, if certain conditions are met. The bill would require the health care service plan to reimburse the facility to which the patient returns at one of 2 prescribed rates. The bill would require its provisions to be applicable to health care service plan contracts issued, amended, or renewed on or after January 1, 1999.

By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:



(a) Elderly persons and their families may select nursing facilities as a permanent home when their health status and functional limitations make it difficult for them to remain in the community. In addition, some elderly persons select continuing care retirement communities in advance of the need for care and services with the expectation that the continuing care retirement community will provide for their health and long-term care needs, if and when they need services, according to the provisions of their contract and financial arrangement with the facility.

(b) Health care service plan contracts that require enrollees be placed in a skilled nursing facility participating in the plan can disrupt the residential arrangements of elderly and disabled persons and interfere with continuing care contracts.

(c) As of September 1996, there were 1.4 million Medicare beneficiaries enrolled in Medicare HMO plans in California, representing 37 percent of the more than 3.8 million Medicare beneficiaries eligible. Medicare HMO enrollment rates in California have been increasing at more than 20 percent per year since 1994, with nearly 300,000 new Medicare enrollees in health care service plans in 1996 alone.

(d) It is therefore the intent of the Legislature to enact reasonable protections to allow elderly and disabled enrollees to return to their residence, whether it be a freestanding skilled nursing facility, multilevel facility, or continuing care retirement community.

SEC. 2. Section 1367.09 is added to the Health and Safety Code, to read:

1367.09. (a) An enrollee with coverage for Medicare benefits who is discharged from an acute care hospital shall be allowed to return to a skilled nursing facility in which the enrollee resided prior to hospitalization, or the skilled nursing unit of a continuing care retirement community or multilevel facility in which the enrollee is a resident for continuing treatment related to the acute care hospital stay, if all of the following conditions are met:

(1) The enrollee is a resident of a continuing care retirement community, as defined in paragraph (10) of subdivision (a) of Section 1771, or is a resident of a multilevel facility, as defined in paragraph (9) of subdivision (d) of Section 15432 of the Government Code, or has resided for at least 60 days in a skilled nursing facility, as defined in Section 1250, that serves the needs of special populations, including religious and cultural groups.

(2) The primary care physician, and the treating physician if appropriate, in consultation with the patient, determines that the medical care needs of the enrollee, including continuity of care, can be met in the skilled nursing facility, or the skilled nursing unit of the continuing care retirement community, or multilevel facility. If a determination not to return the patient to the facility is made, the physician shall document reasons in the patient's medical record and share that written explanation with the patient.

(3) The skilled nursing facility, continuing care retirement facility, or multilevel facility is within the service area and agrees to abide by the plan's standards and terms and conditions related to the following:

(A) Utilization review, quality assurance, peer review, and access to health care services.

(B) Management and administrative procedures, including data and financial reporting that may be required by the plan.

(C) Licensing and certification as required by Section 1367.

(D) Appropriate certification of the facility by the Health Care Financing Administration or other federal and state agencies.

(4) (A) The skilled nursing facility, multilevel facility, or continuing care retirement community agrees to accept reimbursement from the health care service plan for covered services at either of the following rates:

(i) The rate applicable to similar skilled nursing coverage for facilities participating in the plan.



(ii) Upon mutual agreement, at a rate negotiated in good faith by the health care service plan or designated agent on an individual, per enrollee, contractual basis.

(B) Reimbursement shall not necessarily be based on actual costs and may be comparable to similar skilled nursing facility reimbursement methods available for other plan contracted facilities available to the individual member.

(b) The health care service plan, or designated agent, shall be required to reimburse the skilled nursing facility, continuing care retirement facility, or multilevel facility at the rate agreed to in paragraph (4) of subdivision (a).

(c) No skilled nursing facility, multilevel facility, or continuing care retirement community shall collect, or attempt to collect, or maintain any action of law, against a subscriber or enrollee to collect reimbursement owed by the health care service plan for health care services provided pursuant to this section, or for any amount in excess of the payment amount that the facility has agreed to accept in its agreement with the health care service plan.

(d) Reimbursement by the health care service plan or designated agent shall be for those services included in the Medicare risk contract between the health care service plan and enrollee.

(e) Nothing in this section requires a skilled nursing facility, continuing care retirement facility, or multilevel facility to accept as a skilled nursing unit patient anyone other than a resident of the facility.

(f) This section shall apply to a health care service plan contract that is issued, amended, or renewed on or after January 1, 1999.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition

of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved \_\_\_\_\_, 1998

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*Governor*

